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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19942-2021 (O&M)
Date of Decision:24.02.2022

Rajesh Kumar @ Kala

.. Petitioner

Vs.

State of U.T. Chandigarh

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ramnish Puri, Advocate for the petitioner.

Mr. Anupam Bansal, A.P.P. U.T. Chandigarh.

...

Manoj Bajaj, J. (Oral)

Petitioner has prayed for grant of regular bail under Section 439 Cr.P.C, pending trial in case FIR No.09 dated 09.01.2020 registered under Sections 21 and 22 NDPS Act, 1985 at Police Station Sector-11, Chandigarh, who is confined in Burail Jail, Chandigarh.

As per prosecution, On 09.01.2020, recovery of alleged contraband (10.70 grams of heroin and 14 injections of Buprenorphine) was effected from the present petitioner, who was arrested on the spot.

Learned counsel for the petitioner has argued that the recovered contraband would be marginally above the non-commercial quantity defined under NDPS Act and the petitioner is in custody since his arrest on 09.01.2020, but the trial has not concluded, as only seven prosecution witnesses have been examined out of total sixteen witnesses. He prays for bail

Learned counsel for U.T. Chandigarh opposes the prayer and

refers to the custody certificate filed by Amandeep Singh, CPS, Addl.

Superintendent, Model Jail, Chandigarh and submits that the petitioner was embroiled in number of other criminal cases including the case FIR No.104 dated 20.04.2004 under Section 21 NDPS Act. Therefore, in view of his antecedents, he does not deserve the concession of regular bail.

At this stage, learned counsel for the petitioner has pointed out that in the FIR No. 104 dated 20.04.2004, the petitioner has already served the sentence of 14 days imprisonment, and in rest of the cases of theft or offences under Excise Act also, he has served the sentence.

Considering the above background, nature and quantity of contraband as well as the custodial period of the petitioner, his further detention behind the bars may not be necessary for any useful purpose. Apart from it, the material witnesses are police officials and at present there does not seem to be any possibility of their being won over.

Resultantly, without meaning any expression of opinion on the merits of the case, it is ordered that the petitioner be released on regular bail in the above case, subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

The petition is allowed.

24.02.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes	No
Yes	No